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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals except of such cases as are reported in full.

VAN DYKE et al v. NORFOLK SOUTHERN R. CO. et al.

Nov. 16, 1911.

[72 S. E. 659.]

1. Equity (§ 239*)—Pleading—Demurrer—Admissions.—A demurrer to a bill in equity admits the truth of all facts well pleaded, but not conclusions of law suggested in the bill or inferences from facts stated.

[Ed. Note.—For other cases, see Equity, Cent. Dig. § 494; Dec. Dig. § 239.* 4 Va.-W. Va. Enc. Dig. 463, id. 471.]

2. Specific Performance (§ 116¾*)—Pleading—Requisites.—The rule governing the consideration of a bill in equity on demurrer thereto, where the relief asked is specific performance of a contract, applies to all cases, regardless of the magnitude of the interests involved; and the court may not overrule a demurrer to an insufficient bill, where the questions involve inferences of facts, and the interests at stake are weighty, and postpone the questions of law until they are determined on a full discovery of all the facts.

[Ed. Note.—For other cases, see Specific Performance, Dec. Dig. § 116¾.*]

3. Specific Performance (§ 28*)—Contracts Enforceable.—Equity will not enforce a contract, the terms of which are uncertain.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. §§ 61-68; Dec. Dig. § 28.* 12 Va.-W. Va. Enc. Dig. 491.]

4. Specific Performance (§ 116¾*)—Pleadings—Requisites.—A bill in equity to enforce a contract must, when considered on demurrer, show that the contract is complete and certain, and that equity will not risk doing injustice by enforcing the contract otherwise a demurrer must be sustained.

[Ed. Note.—For other cases, see Specific Performance, Dec. Dig. § 116¾.* 14 Va.-W. Va. Enc. Dig. 943.]

5. Specific Performance (§ 116¾*)—Bill—Demurrer.—A bill in equity to enforce a contract between a syndicate and a reorganization committee for the bondholders of a corporation, which sets out in full an agreement, designated as "preliminary agreement," and indicating a more complete agreement to follow, and which shows modifications of the agreement embodied in an exhibit, making substantial changes, and which avers that plaintiffs, suing on behalf of themselves and others composing the syndicate, did not assent to the modifica-

*For other cases see same topic and section NUMBER in Dec Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

tions, etc., is demurrable for failing to show a complete, certain, and definite contract.

[Ed. Note.—For other cases, see Specific Performance, Dec. Dig. § 116¾.* 12 Va.-W. Va. Enc. Dig. 491.]

6. Specific Performance (§ 28*)—Contracts Enforceable—"Completeness"—"Certainty."—The element of "completeness" of a contract, requisite to its specific performance, denotes that the contract embraces all the material terms, while the element of "certainty," also a requisite, denotes that each of the terms is expressed in a sufficiently exact and definite manner; and an incomplete contract, which equity will not enforce, is one from which one or more material terms have been omitted; and an uncertain contract, likewise unenforceable, is one wherein one or more of the material terms is expressed in such indefinite language that the intent of the parties cannot be ascertained, to enable equity to carry the same into effect.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. §§ 61-68; Dec. Dig. § 28.* 12 Va.-W. Va. Enc. Dig. 489.

For other definitions, see Words and Phrases, vol. 2, pp. 1028, 1366-1368.]

Appeal from Circuit Court of City of Norfolk.

Suit by one Van Dyke and another, on behalf of themselves and others, composing a syndicate, against the Norfolk Southern Railroad Company and others. From a decree sustaining demurrers to the bill, plaintiffs appeal. Affirmed.

R. T. Thorp, Tazewill Taylor and Thomas Lenning, for the appellants.

E. R. Baird, Jr., T. L. Chadbourne, Jr., and Frederick Hoff, for the appellees.

ROLLER v. MURRAY et al.

Nov. 16, 1911.

[72 S. E. 665.]

1. Contracts (§ 138*)—Unenforceable Contracts—Illegal Contracts—Rights of Parties.—Where money is paid or services are rendered under a contract void merely because not enforceable, an implied assumpsit lies for the money paid or the value of the services rendered; but where the contract is illegal, because contrary to positive law or against public policy, an action does not lie to recover the money paid on it, or the value of the services rendered under it.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 681-700; Dec. Dig. § 138.* 7 Va.-W. Va. Enc. Dig. 279; id. 292; 14 id. 207.]

2. Champerty and Maintenance (§ 4*)—Illegality of Champertous

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.